

# EXHIBIT 2

July 10, 2006

Deposition of James Patterson

Page 1

1 IN THE UNITED STATES DISTRICT COURT  
 2 FOR THE MIDDLE DISTRICT OF ALABAMA  
 3 EASTERN DIVISION  
 4  
 5 LORI ANN MORRIS,  
 6 Plaintiff,  
 7 Vs. CIVIL ACTION NO.  
 8 3:02-CV-962-T  
 9 FLORIDA TRANSFORMER,  
 et al.,  
 10 Defendants.  
 11  
 12  
 13

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14  
 15 DEPOSITION OF JAMES PATTERSON, taken  
 16 pursuant to stipulation and agreement before  
 17 Haley A. Phillips, Certified Shorthand Reporter,  
 18 and Commissioner for the State of Alabama at Large,  
 19 at 301 South Ripley Street, Montgomery, Alabama, on  
 20 Monday, July 10, 2006, commencing at approximately  
 21 10:30 a.m.  
 22  
 23 \*\*\*\*\*

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## 1 APPEARANCES

2 FOR THE PLAINTIFF:  
 3 Henry L. Penick, Esq.  
 Attorney at Law  
 5 Post Office Box 967  
 Birmingham, Alabama 35201

## 6 FOR THE DEFENDANT:

7 Richard E. Broughton, Esq.  
 8 Ball, Ball, Matthews & Novak  
 Attorneys at Law  
 9 Suite 204  
 10 2000 Interstate Park Drive  
 11 Montgomery, Alabama 36109

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1 STIPULATION  
 2 It is hereby stipulated and agreed by and  
 3 between counsel representing the parties that the  
 4 deposition of JAMES PATTERSON is taken pursuant to  
 5 the Federal Rules of Civil Procedure and that said  
 6 deposition may be taken before Haley A. Phillips,  
 7 Certified Shorthand Reporter, and Commissioner for  
 8 the State of Alabama at Large, without the  
 9 formality of a commission, that objections to  
 10 questions other than objections as to the form of  
 11 the question need not be made at this time but may  
 12 be reserved for a ruling at such time as the said  
 13 deposition may be offered in evidence or used for  
 14 any other purpose by either party provided for by  
 15 the Statute.

16 It is further stipulated and agreed by and  
 17 between counsel representing the parties in this  
 18 case that the filing of said deposition is hereby  
 19 waived and may be introduced at the trial of this  
 20 case or used in any other manner by either party  
 21 hereto provided for by the Statute regardless of  
 22 the waiving of the filing of the same.  
 23 It is further stipulated and agreed by and

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 computer operator. I've trained in forensic laser mapping of crash scenes, interviewing and interrogation for the traffic crash investigator, commercial vehicle accident investigation, linear momentum and vector diagramming of the crash scene, computerized collision diagramming, pedestrian accident investigation, motorcycle accident investigation, applied physics for accident reconstruction, photography for the traffic crash investigator.

And since that time I've also reattended an update of traffic crash reconstruction in 2003. I'm trained as an operator of the Vetronic Crash Data Retrieval Systems. I'm also certified by the Alabama Peace Officers Standards and Training Commission as an instructor in the field of traffic crash investigation.

Q. Do you as part of your duties or have you as part of your duties with the Alabama State Troopers reconstructed truck

- 1 A. Yes, sir.
- 2 Q. Do you know if you've testified as an
- 3 accident reconstructionist in -- expert in
- 4 federal court here in the Middle District
- 5 of Alabama?

6 A. I don't know. I can't recall.

7 MR. BROUGHTON: I'm going to  
 8 offer -- Henry, I'm going to  
 9 offer Sergeant Patterson as an  
 10 expert in accident  
 11 reconstruction to the extent  
 12 he has opinions that he formed  
 13 from his investigation of this  
 14 particular case at this time.

15 MR. PENICK: We renew our  
 16 objection to any expert  
 17 opinion rendered by this  
 18 witness for lack of predicate,  
 19 lack of qualifications as an  
 20 expert in the area of accident  
 21 reconstruction.

22 Q. Sergeant Patterson, just to make sure that  
 23 the Record is clear on this, you did form

1 accidents?

2 A. Yes, sir, I have.

3 Q. And for how many years have you done that?

4 A. Since 1993.

5 Q. Do you -- Are you qualified as an accident  
 6 reconstructionist?

7 MR. PENICK: Objection to whether  
 8 or not he's qualified.

9 A. That would be a question for the Court.

10 I'm trained as an accident  
 11 reconstructionist.

12 Q. Do you consider yourself qualified as an  
 13 accident reconstruction?

14 MR. PENICK: Same objection.

15 Q. You can answer.

16 A. That would be a question for the Court to  
 17 answer.

18 Q. Have you testified in any civil or criminal  
 19 cases as an accident reconstructionist?

20 A. Yes, sir, I have.

21 Q. How many, approximately?

22 A. Many. I don't know. Quite a few.

23 Q. In state and federal court?

1 an opinion as I understand it about whether  
 2 the accident was avoidable or unavoidable  
 3 by Mr. Thompson, the driver of the  
 4 Peterbilt?

5 A. Yes, sir, I did.

6 Q. And that opinion was what?

7 MR. PENICK: Same objection about  
 8 lack of predicate to testify  
 9 as an expert witness.

10 A. It's my opinion that it was not possible  
 11 for Mr. Thompson to avoid this crash faced  
 12 with the circumstances that he was.

13 Q. And that opinion is based on a reasonable  
 14 degree of accident reconstruction certainty  
 15 based on your investigation of this  
 16 accident?

17 A. I'm sorry. Would you repeat that?

18 Q. Yes, sir. Is that opinion based on a  
 19 reasonable degree of accident  
 20 reconstructionist's certainty based on your  
 21 investigation of this accident?

22 MR. PENICK: Same objection to the  
 23 form of the question and to

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 1 criminal investigation initiated by my  
 2 unit, I did not attempt to do so.

3 Q. Did you interview either of the occupants  
 4 of the Peterbilt?

5 A. It was not possible to interview  
 6 Mr. Morris, and I don't recall whether I  
 7 spoke with Mr. Thompson or not.

8 Q. Well, he had a passenger too. You don't  
 9 recall --

10 A. I don't recall speaking to anyone. I may  
 11 have. I'm not saying I didn't. I just  
 12 don't recall whether that conversation  
 13 occurred or if -- and even if it did the  
 14 content of those conversations.

15 Q. When you took the -- Do your photographs --  
 16 any of your photographs depict any evidence  
 17 on the roadway as to where and in which  
 18 lanes the Panther vehicle had overturned in  
 19 the initial accident as you described it?

20 A. I believe that it was blocking all of the  
 21 leftmost lane and partially blocking the  
 22 right lane, if not completely.

1 right-hand lane to the right.

2 Q. Were you able to determine a point of  
 3 impact between the Peterbilt and the -- or  
 4 an area of impact between the Peterbilt and  
 5 the overturned Panther vehicle?

6 MR. PENICK: Let me object to  
 7 testimony at this point as to  
 8 whether or not he even  
 9 determined the point of  
 10 impact.

11 MR. BROUGHTON: That's what I  
 12 asked.

13 MR. PENICK: So lack of proper  
 14 predicate for him to give  
 15 testimony on this point.

16 A. I have an opinion as to an approximate area  
 17 of impact. As far as a specific point, I  
 18 can't narrow it down that closely, but I do  
 19 believe I can narrow it down to an area.

20 Q. What's your opinion as to the area of  
 21 impact?

22 A. It's within the right-hand northbound lane  
 23 of I-85.

1 (Defendant's Exhibit P-2 was marked  
 2 for identification.)

3 Q. Let me show you what I've marked as  
 4 Defendant's Exhibit P-2 and ask you did you  
 5 take that photograph.

6 A. I did.

7 Q. Does that photograph fairly and accurately  
 8 depict the scene as it was that night when  
 9 you arrived?

10 A. Yes, sir, it did -- it does.

11 Q. Have either of those vehicles been -- Were  
 12 either of those vehicles moved before your  
 13 arrival?

14 A. No, sir.

15 Q. Can you tell me in that photograph or can  
 16 you describe in that photograph how the  
 17 trailer of the -- that the Peterbilt was  
 18 pulling is positioned?

19 A. The trailer of the Peterbilt is aligned to  
 20 the right side of the rightmost lane with  
 21 the right side trailer wheels just outside  
 22 the fog line to the right of the roadway.  
 23 In other words, it's partially out of the

1 Q. Does the --

2 A. And when I describe that, I'm referring to  
 3 the nose of the Peterbilt at the point that  
 4 it collided with the trailer of the  
 5 Kenworth.

6 MR. PENICK: Same objection.

7 Q. Did -- Can you show me on that photograph  
 8 that approximate area of impact?

9 A. It's further back than this photograph  
 10 depicts.

11 Q. All right. In Defendant's Exhibit P-2 if  
 12 you'll look on the pavement there -- And  
 13 tell me first, what is -- what is the  
 14 pavement? What material of construction is  
 15 in that area? Do you remember?

16 A. Asphalt.

17 Q. Asphalt.

18 A. It's just standard asphalt. It's not a  
 19 concrete roadway.

20 Q. The marks I'm looking at -- And let me walk  
 21 around if I can. There are some curved  
 22 marks in the left-hand lane. What is your  
 23 observation of those marks? You were out

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- 1 A. It had not.  
 2 Q. And any tire marks that are depicted in  
 3 that photograph were there the night of  
 4 this accident; correct?  
 5 A. That is correct.  
 6 Q. And, again, describe what you were  
 7 describing about these particular tire  
 8 marks.  
 9 A. These tire marks are aligned down the  
 10 right-side lane and --  
 11 Q. The right side of --  
 12 A. The right side of the right-hand lane.  
 13 They appear to lead directly to the trailer  
 14 tires of the --  
 15 This is the Peterbilt, is it not?  
 16 Q. Right. That's confusing.  
 17 A. -- the Peterbilt.  
 18 Q. Which trailer tires? Which side of the  
 19 trailer?  
 20 A. The left side tandems of the trailer, the  
 21 utility trailer pulled by that truck. They  
 22 appear to lead directly to it. I cannot  
 23 see in this photograph if they continue on

- 1 that are shown in Defendant's Exhibit P-2?  
 2 A. No, sir, it does not, nor does it  
 3 accurately depict the positions of the  
 4 vehicles.  
 5 MR. PENICK: Object to the  
 6 answer. It was nonresponsive  
 7 to the question.  
 8 Q. And do you have an explanation for that?  
 9 A. An explanation for why the tire marks are  
 10 not depicted?  
 11 Q. Why the tire marks are not depicted and why  
 12 the scene might not be accurately depicted  
 13 in that particular drawing in Defendant's  
 14 Exhibit P-1.  
 15 A. Trooper --  
 16 MR. PENICK: Object to the -- this  
 17 question because it requires  
 18 speculation on the part of the  
 19 witness.  
 20 Q. Go ahead.  
 21 A. Trooper Huntley prepared a not-to-scale  
 22 diagram. It's not intended to perfectly  
 23 depict the final position of this vehicle.

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- 1 past that to determine for certain whether  
 2 they're from the drive axle or the tandem.  
 3 However, they appear to stop directly at  
 4 the tire position of the trailer.  
 5 (Defendant's Exhibit P-1 was marked  
 6 for identification.)  
 7 Q. All right. Let me show you Defendant's  
 8 Exhibit P-2 and ask you to identify -- I  
 9 mean, Defendant's Exhibit P-1, which I  
 10 haven't yet offered, and ask you what that  
 11 is.  
 12 A. This is the crash report prepared by  
 13 Trooper Alex Huntley regarding this crash.  
 14 Q. All right. And it has been reported by  
 15 other people that have reviewed Defendant's  
 16 Exhibit P-1 that that drawing shows no skid  
 17 marks or tire marks.  
 18 MR. PENICK: Object to the preface  
 19 of the question about what  
 20 other people have said about  
 21 it.  
 22 Q. And my question to you is, does that  
 23 drawing show the tire marks or skid marks

- 1 And it poorly depicts the final positions  
 2 of the -- particularly vehicle number two,  
 3 the Thompson vehicle. And I don't know why  
 4 he left the tire marks off. This was a  
 5 very dark night. He may have failed to  
 6 observe them and not realized they were  
 7 there. But, again, that is speculating. I  
 8 don't know why he left them off. However,  
 9 they were present. He didn't put them on  
 10 the diagram.  
 11 Q. In the absence --  
 12 MR. PENICK: We renew our  
 13 objection to that answer since  
 14 it was speculation on his  
 15 part.  
 16 Q. Also on the drawing -- And this is I  
 17 guess -- Is there a page number on that  
 18 drawing? I call it page four of  
 19 Defendant's Exhibit P-1. Why don't we  
 20 number these?  
 21 MR. BROUGHTON: Henry, do you have  
 22 an issue with that --  
 23 MR. PENICK: No, I don't.

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 vehicle traveled for 530 feet from the time it ran off the road into the median until it came back into the roadway.

- Q. All right. Now -- And so you arrived at the scene. And was there anybody other than Alex Huntley there taking field notes?
- A. I'm sure there were a lot of people there. These crashes tend to draw lots of emergency personnel when they involve commercial vehicles. There were firemen there. I don't recall if there were other troopers there. You know, I've been to many, many crashes since this time. I don't -- I didn't make any notes as to who was present.
- Q. And I think you said that you were there for a limited time. How long were you there?
- A. I don't know. Maybe an hour, hour and a half, I'm guessing. I have no idea exactly how long I was there.
- Q. All right. When you got there, did you see the driver of the Peterbilt, Mr. Thompson?

- 1 vehicles that had come to a rest by the  
 2 time he saw them.  
 3 A. It's possible.  
 4 Q. Okay. So you're not -- So you can't say  
 5 for certain that the UPS driver saw any of  
 6 this accident?  
 7 A. My best recollection is that he did, but I  
 8 do not recall that for 100 percent  
 9 certainty.  
 10 Q. Do you recall talking to Trooper Huntley?  
 11 A. I don't recall talking to him. I'm sure I  
 12 did. It would be unnatural for me not to  
 13 be at the scene of a crash and speak with  
 14 the trooper on the scene. However, I don't  
 15 recall speaking to him.  
 16 Q. Do you recall speaking to anybody there  
 17 other than the UPS driver?  
 18 A. No. But I'm sure I did.  
 19 Q. Now is your chance. Is there anybody else  
 20 that you spoke to?  
 21 A. Again, yes, I'm sure there are other people  
 22 I spoke to. I thought I just answered  
 23 that, Mr. Penick. I don't recall who they

- 1 A. I don't recall seeing him.  
 2 Q. Do you recall talking to him?  
 3 A. No, sir, I don't recall that.  
 4 Q. Do you recall talking to the passenger in  
 5 the vehicle with Mr. Thompson, Mr. Tidwell?  
 6 A. I do not -- I do not recall that.  
 7 Q. Did you interview or talk to anyone?  
 8 A. I don't -- I remember talking to the driver  
 9 of the UPS truck. I recalled that today.  
 10 I don't remember the substance of that  
 11 conversation.  
 12 Q. But you don't know whether or not the  
 13 driver of the UPS truck actually witnessed  
 14 the collision, though, do you?  
 15 A. My best recollection is that he did. I  
 16 know that he was involved in a hard braking  
 17 event to avoid colliding into the rear of  
 18 the truck. But I don't recall exactly what  
 19 he said.  
 20 Q. Do you think that hard braking that he did,  
 21 though, was to avoid colliding with some  
 22 stationary objects that he saw in front of  
 23 him? In other words, these two other

- 1 were or what we talked about. Once I  
 2 determined that the driver of the causative  
 3 vehicle was deceased, I ceased being in  
 4 investigator mode. I'm a criminal  
 5 investigator.  
 6 Q. And I believe that you said once you got  
 7 there and you saw that Morris was deceased  
 8 that you decided that it was not a criminal  
 9 investigation?  
 10 A. It was obvious to me that Mr. Morris had  
 11 caused this crash, therefore, there was no  
 12 one to prosecute.  
 13 Q. Okay. Let me go back and look at the  
 14 Defendant's Exhibit 1 and see if you can  
 15 help me with this. On the front of  
 16 Defendant's Exhibit 1, there appears to be  
 17 a box that says prime contributing  
 18 circumstances. Is that what it says?  
 19 A. Yes, sir.  
 20 Q. And it says 27. Do you know what 27 is?  
 21 A. Yes, sir. It's at the bottom left of your  
 22 report.  
 23 Q. I can't read it it's so small. Can you

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- 1 Q. But wouldn't it also depend upon how much  
2 light you're throwing out there on the  
3 object?  
4 A. Absolutely. It would depend on the candle  
5 power of the light source.  
6 Q. On a --  
7 A. Headlights are all much the same.  
8 Q. On a very dark night like this, do you  
9 think that they should -- a person should  
10 have had on his high beams or low beams?  
11 A. Depending on whether he's meeting any  
12 traffic or not or following any traffic.  
13 He would need to be in compliance with  
14 Alabama law regarding headlight use. And  
15 it's an interstate highway.  
16 Q. Also on the police report down near the  
17 Peterbilt -- this is your Exhibit 1 --  
18 where it says other contributing  
19 circumstances it says 97. What is that?  
20 A. 97 means none, that there was no  
21 contributing circumstance on the part of  
22 the Peterbilt.  
23 Q. Okay.
- 1 Q. All right. Now, on this particular  
2 straightaway, did this road have an  
3 emergency lane off to the right?  
4 A. Yes, sir it did.  
5 Q. And I think you used the term fog line. Is  
6 that that solid white line that's on the  
7 far right of the roadway?  
8 A. Yes, sir.  
9 Q. And then beyond that white line is the  
10 emergency lane; right?  
11 A. Yes, sir.  
12 Q. Do you know how wide that emergency lane  
13 is?  
14 A. I didn't measure this one. Typically ten  
15 feet.  
16 Q. Do you know how wide a tractor-trailer is?  
17 A. Typically eight to eight and a half feet.  
18 Q. So a tractor-trailer could really go down  
19 that emergency lane; right?  
20 A. It's physically -- Its dimensions allow it  
21 to do so. Whether it could swerve into it  
22 and maintain alignment in a 10-foot lane  
23 without a trailer swing or going off the

- 1 A. In other words, he did nothing wrong.  
2 Q. In your opinion?  
3 A. That would be in the opinion of Trooper  
4 Huntley who made that report. However, I  
5 concur.  
6 Q. When you gave your opinion about how this  
7 accident occurred, in addition to the  
8 lighting you said the alignment of the  
9 vehicles prior to impact.  
10 A. Yes.  
11 Q. Do you have any knowledge about the  
12 alignment of the vehicles prior to impact?  
13 A. I have -- Their final rest positions and  
14 the marks on the roadway indicate to me  
15 that the Morris vehicle was lying on its  
16 left side with the rear of the trailer  
17 toward the median, the tractor out in both  
18 lanes.  
19 Q. But I believe you said that the -- in your  
20 earlier testimony that the tractor was  
21 partially blocking the right lane. Is that  
22 what you said?  
23 A. Mostly blocking the right lane.

- 1 roadway to the right depends on how much  
2 time there is to react. But it's  
3 physically -- Its physical dimensions would  
4 allow it to drive down an emergency lane.  
5 Q. And I think you mentioned the side of the  
6 roadway. Do you know whether or not the  
7 side of the roadway was essentially level  
8 at this location?  
9 A. My best recollection of this is that it's  
10 not. It slopes off to the right toward a  
11 wooded area, a wet wooded area.  
12 Q. Well, it always slopes off to the right on  
13 the right-hand side. But does it slope  
14 greatly or slightly?  
15 A. Enough to -- A significant grade.  
16 Q. Do you think there's a significant grade  
17 there?  
18 A. Yes, sir. My best recollection. You  
19 know --  
20 Q. But you don't have any pictures of that  
21 right now to refresh your recollection, do  
22 you?  
23 A. No.

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- 1 Q. Have you ever seen a cab to be totally  
 2 separated from a tractor in any other  
 3 accident?  
 4 A. Quite a few times.  
 5 Q. Can you recall any one right here?  
 6 A. I recall one. I can't remember the -- I  
 7 know the decedent's name was Tindall. It  
 8 happened on U.S. 231 just south of  
 9 Montgomery. That's one that I can recall.  
 10 However, there have been many. These cabs  
 11 are typically air mounted. They're mounted  
 12 on airbags that allow a more comfortable  
 13 ride for these stiffly suspended trucks.  
 14 They're not substantially bolted down to  
 15 the cab. In a crash where forces are  
 16 exerted on them, they can -- They come off  
 17 quite often, that's what I'm trying to say.  
 18 Q. And when you mention Tindall, how long was  
 19 that that accident occurred?  
 20 A. Maybe year and a half, two years. But  
 21 there have been many more than that.  
 22 Q. 2004?  
 23 A. Something like that.

1 conspicuity. What if Thompson had seen  
 2 Morris' vehicle in time to apply his  
 3 brakes, slow the vehicle and take it off to  
 4 the right into the emergency lane, could  
 5 the accident have been avoided?

6 MR. BROUGHTON: Object to the  
 7 form. Assumes facts not in  
 8 evidence.

- 9 A. Had he -- Had it been possible for him to  
 10 see that vehicle in his path in time to do  
 11 so, then he could have either brought the  
 12 vehicle to a stop or did, as you said,  
 13 slowed it and driven around it in the  
 14 emergency lane. That would have required  
 15 him to be able to see the vehicle at some  
 16 500 feet away.  
 17 Q. To stop it?  
 18 A. No. He must first see it, identify it as a  
 19 hazard, formulate a plan as to what he  
 20 needs to do, and then initiate a physical  
 21 reaction and then carry out that physical  
 22 reaction. All that takes time. In other  
 23 words, reaction time.

- 1 Q. All right. Now, you also said that your  
 2 opinion was based on your knowledge of  
 3 visibility?  
 4 A. Based on my training and experience in the  
 5 field of conspicuity.  
 6 Q. And how many courses have you had in that?  
 7 A. Almost every crash investigation course  
 8 that I have taken deals in some form with  
 9 driver perception and conspicuity factors.  
 10 Because our vision is the most important  
 11 sense that we have when it comes to  
 12 operating safely a motor vehicle.  
 13 Therefore, any crash investigation course  
 14 must deal with conspicuity issues.  
 15 However, the one that focused almost  
 16 exclusively on conspicuity issues was the  
 17 human factors course which was 40 hours of  
 18 training with in the field of nighttime  
 19 visibility and conspicuity testing of  
 20 various vehicles, pedestrians and types of  
 21 headlights. But every crash investigation  
 22 course deals with conspicuity.  
 23 Q. Let me give you a hypothetical about

- 1 Q. Okay.  
 2 A. There's something -- You're driving down a  
 3 roadway at night. You see something in  
 4 your path. First, you have to say what is  
 5 that and then decide that it -- whether it  
 6 is or is not a hazard to you and then you  
 7 have to decide what to do about it. All  
 8 that takes time. If he's going 70 miles  
 9 per hour, then he's traveling at, what, 105  
 10 feet per second approximately and every  
 11 second that goes by he's covering up 105  
 12 feet of this space that he has available to  
 13 initiate his plan to get around this  
 14 hazard.  
 15 Q. I think you told us earlier that it takes  
 16 four-tenths of a second reaction time --  
 17 A. No, sir, that's not what I said. I said  
 18 there's a brake lag in a commercial vehicle  
 19 typically of four-tenths of a second.  
 20 Four-tenths of a second reaction time is  
 21 absolutely ridiculous. That's not what I  
 22 said.  
 23 Q. All right. But assuming he has perception

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1 clear, you have nothing here today to tell  
 2 you how much skid marks Thompson's  
 3 tractor-trailer made until impact?  
 4 A. No. I did not measure those marks myself.  
 5 And if they were measured, I've not been  
 6 made aware of the measurements.

7 Q. All right.

8 MR. PENICK: That's all.

9 MR. BROUGHTON: Just one follow  
 10 up.

11 EXAMINATION

12 BY MR. BROUGHTON:

13 Q. Everything you saw, the tracks of the  
 14 Morris vehicle down in the median, all that  
 15 evidence is consistent with a driver simply  
 16 falling asleep?

17 MR. PENICK: Objection to --

18 Objection to the question.

19 Assumes facts in evidence and  
 20 is conjecture and  
 21 hypothetically, speculative  
 22 and everything else.

23 Q. You can answer.

1 causes me to form an opinion that  
 2 drowsiness or being asleep is the most  
 3 likely cause of this.

4 Q. Okay.

5 A. However, I cannot substantiate that with  
 6 any physical or forensic evidence.

7 Q. And not to any degree of certainty?

8 A. No.

9 Q. For example, as you just said, you don't  
 10 know how long he had been driving before he  
 11 went off; right?

12 A. No, I don't.

13 Q. You don't know whether or not he had just  
 14 started driving, do you?

15 A. Don't know.

16 Q. And you don't know whether or not another  
 17 vehicle could have forced him off the road  
 18 either, do you?

19 A. I am more convinced that that did not occur  
 20 because of the angle that he went off the  
 21 roadway at was not abrupt.

22 Q. Typically if somebody merged over onto  
 23 him -- if somebody merged over into his

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1 A. Yes.

2 MR. BROUGHTON: That's all I  
 3 have.

4 MR. PENICK: Let me follow up with  
 5 that question.

6 EXAMINATION

7 BY MR. PENICK:

8 Q. Do you have any evidence whatsoever to tell  
 9 you that Morris fell asleep when he went  
 10 into the median?

11 A. I don't have any evidence directly from  
 12 Mr. Morris who was deceased, therefore, I  
 13 could not ask him any questions. What I  
 14 can say based on my training and experience  
 15 in traffic crash investigation, the  
 16 movements of his vehicle are completely  
 17 consistent with many other crashes that  
 18 were the result of an asleep driver. That  
 19 combined with the time of the morning,  
 20 3:25 a.m. -- I did not inspect his  
 21 logbook. I don't know what his working  
 22 hours had been. But a 3:25 a.m. crash, a  
 23 driver going off into the median, that

1 lane, wouldn't he go off -- go off into the  
 2 median?

3 A. He might. I wouldn't.

4 Q. Okay.

5 A. If a car was coming over on me, I'd stay  
 6 there.

7 Q. You don't have any evidence that a car --  
 8 Well, let me rephrase that.

9 A. You're correct.

10 Q. Well, you don't have any evidence whether  
 11 or not someone had forced him off the road.

12 A. There's no evidence to indicate that  
 13 someone had forced him off the road.

14 Q. And you don't know whether or not that  
 15 occurred, do you?

16 A. Well, what we'd have to assume is that if  
 17 it's a car that it's in his blind spot. To  
 18 be in a position to force him off the road,  
 19 it has to be in his blind spot. How can  
 20 something you can't see force you off the  
 21 road?

22 Q. Somebody was driving along in the outside  
 23 lane and started moving over into the